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Attorneys for Plaintiffs and the Class

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

NANCY DARDARIAN, individually and on
 behalf of all others similarly situated,

Plaintiffs,

v.

OFFICEMAX NORTH AMERICA, INC., an
 Ohio corporation,

Defendant.

Case No. 4:11-cv-00947 YGR

CLASS ACTION

**DECLARATION OF GENE J.
 STONEBARGER IN SUPPORT OF
 PLAINTIFFS' UNOPPOSED
 MOTION FOR PRELIMINARY
 APPROVAL OF REVISED CLASS
 ACTION SETTLEMENT**

Date: November 5, 2013
 Time: 2:00 p.m.
 Courtroom: 5 – 2nd Floor
 Judge: Hon. Yvonne Gonzalez Rogers

NATHAN THOMS, individually and on
 behalf of himself and others similarly situated,

Plaintiffs,

v.

OFFICEMAX NORTH AMERICA, INC., an
 Ohio corporation; and DOES 2 through 50,
 inclusive,

Defendants.

Case No. 4:11-cv-02233 YGR

1 I, GENE J. STONEBARGER, declare:

2 1. I am an attorney duly admitted to practice law before all courts of the State of
3 California, I am a shareholder in the law firm of Stonebarger Law, A Professional Corporation
4 (herein "Stonebarger Law"), and I am one of the attorneys of record for Plaintiffs and the Class
5 herein. I make this declaration in support of Plaintiffs' Unopposed Motion for Preliminary
6 Approval of Class Action Settlement. If called as a witness, I would and could testify to the
7 following:

8 2. After extensive arms-length negotiations, Plaintiffs and Defendant OfficeMax
9 North America, Inc. ("Defendant" or "OfficeMax") have entered into a revised Class Action
10 Settlement Agreement and Release ("Settlement Agreement"). Plaintiffs' counsel believes the
11 settlement terms are fair, reasonable, and adequate. A true and correct copy of the Settlement
12 Agreement is attached hereto as Exhibit '1'.

13 3. Plaintiffs engaged in formal discovery and analyzed the relevant legal issues with
14 regards to the claims in, and potential defenses to, the Action. Plaintiffs also considered the
15 uncertainties of trial and the benefits to be obtained under the proposed Settlement and have
16 considered the costs, risks, and delays associated with the continued prosecution of this time-
17 consuming litigation and the likely appeals of any rulings in favor of either Plaintiffs or
18 Defendant. The Parties believe their respective positions in the Action are meritorious.
19 However, due to the uncertainties and expense of protracted litigation, Plaintiffs decided it is in
20 the best interest of Plaintiffs and the Class to explore mutual resolution of the Action.

21 4. Accordingly, on February 21, 2012, the Parties participated in an all-day
22 mediation conducted by the Honorable David Garcia (Ret. San Francisco Superior Court Judge)
23 of JAMS, an experienced mediator. On October 25, 2012, November 30, 2012, and January 30,
24 2013, the Parties participated in Settlement Conferences before Magistrate Judge Nandor J.
25 Vadas, and on November 14, 2012, December 18, 2012, and January 2, 2013, the Parties
26 participated in telephonic settlement conferences before Judge Vadas. As a result of these
27 settlement conferences and telephonic settlement conferences, the Parties ultimately agreed on
28 the material terms to resolve this Action. After the June 18, 2013 hearing on the initial motion

1 for preliminary approval where the Court expressed its concerns regarding the notice provisions
2 and the timing of attorneys' fees, the settlement agreement was revised pursuant to further
3 negotiations conducted, including a further Settlement Conference with Judge Vadas on August
4 7, 2013.

5 5. The settlement takes into account the risk, expense, and complexity of further
6 litigation. Plaintiffs and the Class have retained an expert in the credit card industry and would
7 have to retain additional experts to conduct forensic analysis of the recording and storage of
8 OfficeMax's customer information, as well as experts to testify to the value of the collected
9 information. OfficeMax would vigorously oppose Dardarian's attempt to get a class certified
10 and has retained an expert to defeat certification and the Class claims (an expert affidavit has
11 already been filed with the Court). Additional time consuming and expensive law and motion
12 proceedings would be necessary to narrow or eliminate the claims and defenses both at the
13 certification stage and the trial stage. The time and expense of further litigation could potentially
14 negatively impact OfficeMax's business operations and would interfere with potential Class
15 members' opportunity to obtain benefits promptly. Accordingly, the settlement at this stage in
16 the litigation benefits the Court, the Parties, and the Class.

17 6. Through mutual exchange of formal discovery, Plaintiffs believe they have
18 discovered both the evidence needed to establish their *prima facie* cases and to address the full
19 range of contentions advanced by OfficeMax. In that process, among other things, OfficeMax
20 provided Plaintiffs with information relating to its policies and practices regarding the collection
21 of personal identification information. As such, while OfficeMax disagrees with Plaintiffs'
22 assessment of the evidence produced, OfficeMax agrees that counsel for each of the Parties has
23 sufficient information to assess the strengths, weaknesses, and likely expense of taking this case
24 to trial.

25 7. OfficeMax estimates that from March 1, 2010 through February 22, 2011, it
26 requested and recorded approximately 2.6 million ZIP codes. While OfficeMax disputes
27 whether any given ZIP code capture was a violation of the Song-Beverly Credit Act, it admits for
28 the limited purposes of settlement that the numerosity requirement is satisfied.

1 8. In this case, there are multiple "common issues" affecting the entire Class and
2 OfficeMax's liability; mainly, whether OfficeMax's conduct of requesting and recording
3 customers' ZIP codes from its credit card customers violates California Civil Code section
4 1747.08. Though the Parties dispute whether any given transaction in fact constitutes a violation
5 of section 1747.08, the issue is nonetheless common amongst the Class.

6 9. Plaintiff Dardarian alleges that she was exposed to the same alleged unlawful
7 policy and practice of OfficeMax. Specifically, Plaintiff Dardarian alleges that OfficeMax
8 requested and recorded her ZIP code during a consumer credit card purchase transaction at a
9 California retail store which constituted a violation of section 1747.08. Importantly, Plaintiff
10 Dardarian does not allege any claims or facts unique to themselves. Thus, the requirement of
11 typicality is satisfied.

12 10. Proposed Class Counsel are qualified and experienced in conducting class action
13 litigation. Attached as Exhibit '2' is a true and correct copy of the Firm Resume of Stonebarger
14 Law, APC. My firm, Stonebarger Law, APC, substantially concentrates its practice in the
15 prosecution of class actions and I have successfully served as Class Counsel or Co-Class Counsel
16 prosecuting numerous Class Actions to Judgment against large corporations for violations of
17 California's Song-Beverly Credit Card Act, recovering tens of millions of dollars in benefits for
18 California consumers.

19 11. Hoffman Libenson Saunders & Barba also has substantial experience in the
20 prosecution of class actions and has served as Class Counsel or Co-Class Counsel prosecuting
21 numerous Class Actions to Judgment.

22 12. Based upon Class Counsel's substantial experience, Class Counsel believes the
23 present settlement is in the best interest of the Class members due to the significant recovery to
24 the Class members, without any risk of the Class not being certified and not prevailing as to
25 liability and/or civil penalties.

26 13. Attached as Exhibit 'A' to Exhibit '1' hereto is a true and correct copy of the
27 proposed Claim Form in substantially final form relating to the settlement in the above-entitled
28 action.

I declare under penalty of perjury that the facts stated in this declaration are true and correct, and that this declaration was executed on September 12, 2013 in Folsom, California.

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DECLARATION OF GENE J. STONEBARGER IN SUPPORT OF PLAINTIFFS' UNOPPOSED MOTION
FOR PRELIMINARY APPROVAL OF REVISED CLASS ACTION SETTLEMENT